

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 8039 of 2015 (D)

PETITIONER(S) :

**M/S.SI PROPERTY (KERALA) PVT. LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR,
S.N.RAGHUCHANDRAN NAIR, SILVER OAKS, NEAR GOLF CLUB,
KOWDIAR, THIRUVANANTHAPURAM - 695 003.**

**BY ADVS.SRI.G.JAYAPRAKASH
SMT.MANJU RAJAN
SMT.P.V.REMA**

RESPONDENT(S) :

- 1. THE SUPERINTENDENT OF CENTRAL EXCISE,
SERVICE TAX GROUP B, ICE BHAVAN, PRESS CLUB ROAD,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE ASSISTANT COMMISSIONER,
SERVICE TAX DIVISION, ICE BHAVAN, PRESS CLUB ROAD,
THIRUVANANTHAPURAM - 695 001.**
- 3. THE COMMISSIONER, CUSTOMS,
CENTRAL EXCISE & SERVICE TAX, ICE BHAVAN,
PRESS CLUB ROAD, THIRUVANANTHAPURAM - 695 001.**

*** ADDITIONAL R4 IMPEADED**

- 4. THE COMMISSIONER APPEALS, CUSTOMS,
CENTRAL EXCISE & SERVICE TAX, CENTRAL REVENUE BUILDINGS,
I.S.PRESS ROAD, COCHIN- 682 018.**

*** ADDITIONAL R4 IS IMPEADED AS PER ORDER DATED 23.03.2015 IN
I.A.NO.4046 OF 2015.**

BY ADV. SRI.TOJAN J.VATHIKULAM, S.C

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY ORDER IN ORIGINAL NO.48/2010-ST(JC) DATED 26/11/2010 ISSUED BY THE JOINT COMMISSIONER.**
- P2: TRUE COPY ORDER IN ORIGINAL NO.17/2011-ST(JC) DATED 10/03/2011 ISSUED BY JOINT COMMISSIONER.**
- P3: TRUE COPY ORDER IN ORIGINAL NO.47/2013-ST(ADC) DATED 21/10/2013 ISSUED BY ADDL. COMMISSIONER.**
- P4: TRUE COPY OF APPEAL MEMORANDUM & STAY PETITION NO.16/ST/TVM/2011 DATED 01/2011 FILED BY PETITIONER BEFORE THE COMMISSIONER APPEALS WITHOUT ANNEXURES.**
- P5: TRUE COPY OF APPEAL MEMORANDUM & STAY PETITION NO.58/ST/TVM/2011 DATED 04/2011 FILED BY PETITIONER BEFORE THE COMMISSIONER APPEALS WITHOUT ANNEXURES.**
- P6: TRUE COPY OF APPEAL MEMORANDUM & STAY PETITION NO.17/ST/TVM/2014 DATED 02/2014 FILED BY PETITIONER BEFORE THE COMMISSIONER APPEALS WITHOUT ANNEXURES.**
- P7: TRUE COPY OF ACKNOWLEDGEMENT LETTER NO.A_NO.16/ST/TVM/2011 DATED 16/02/2011 FROM THE OFFICE OF THE COMMISSIONER.**
- P8: TRUE COPY OF ACKNOWLEDGEMENT LETTER NO.A_NO.58/ST/TVM/2011 DATED 05/05/2011 FROM THE OFFICE OF THE COMMISSIONER.**
- P9: TRUE COPY OF ACKNOWLEDGEMENT LETTER NO.A_NO.17/ST/TVM/2014 DATED 28/02/2014 FROM THE OFFICE OF THE COMMISSIONER.**
- P10: TRUE COPY OF NOTIFICATION NO.36/2010 DATED 28/06/2010.**
- P11: NOTICE NO.OC NO.125/2015 DATED 06/02/2015 ISSUED BY THE FIRST RESPONDENT TO THE PETITIONER.**
- P12: NOTICE NO.OC NO.177/2015 DATED 13/02/2015 ISSUED BY THE FIRST RESPONDENT TO THE PETITIONER.**
- P13: NOTICE NO.OC NO.208/2015 DATED 23/02/2015 ISSUED BY THE FIRST RESPONDENT TO THE PETITIONER.**
- P14: REPLY DATED 16/02/2015 SUBMITTED BY THE PETITIONER.**
- P15: REPLY DATED 20/02/2015 SUBMITTED BY THE PETITIONER.**

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**P16: TRUE COPY OF NOTIFICATION NO.OC NO.233/2015 DATED 24/02/2015
ISSUED TO THE PETITIONER BY RESPONDENT NO.1.**

P17: MEMORANDUM SUBMITTED BY THE PETITIONER DATED 27.02.2015.

P18: CIRCULAR NO.396/29/98_CX DATED 02/06/1998 ISSUED BY CBEC.

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

A.K.JAYASANKARAN NAMBIAR, J.

W.P.(C).NO.8039 OF 2015 (D)

Dated this the 23rd day of March, 2015

J U D G M E N T

Against Exts.P1 to P3 orders confirming a demand of service tax and penalty on the petitioner, the petitioner has preferred Exts.P4 to P6 appeals and stay petitions before the additional 4th respondent. The apprehension of the petitioner is that even prior to considering the stay petitions, recovery proceedings will be initiated for recovery of the amounts confirmed against the petitioner by Exts.P1 to P3 orders.

2. I have heard the learned counsel appearing for the petitioner as also the learned Standing counsel appearing for the respondents.

On a consideration of the facts and circumstances of the case as also the submissions made across the bar, I dispose the writ petition with a direction to the additional 4th respondent to consider and pass orders on the stay petitions within a period of two months from the date of receipt of a copy of this judgment. Recovery steps confirmed

against the petitioner, pursuant to Exts.P1 to P3 orders, shall be kept in abeyance till such time as the additional 4th respondent passes orders on the stay petition and communicates the same to the petitioner.

A.K.JAYASANKARAN NAMBIAR
JUDGE

prp